

*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

NORTHERN REGIONAL OFFICE  
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Regional Director

**STATE WATER CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
Super Concrete Co., Inc.  
FOR  
Super Concrete Co., Inc.  
VPDES Permit No. VAG11  
Registration No. VAG110373**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Super Concrete Co., Inc., regarding the Super Concrete Co., Inc. facility for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation. This Order supersedes and terminates the Consent Order issued by the Board to Super Concrete Co., Inc. on September 21, 2020.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.

3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10.
6. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
  - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
  - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
7. "DMR" means Discharge Monitoring Report.
8. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
9. "Facility" or "Plant" or "Site" means the Super Concrete Co., Inc. concrete contractor office, trucking, manufacturing, and processing plant facility, located at 9207 Venture Court in Manassas Park City, Virginia, owned and operated by Super Concrete Co., Inc.
10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
11. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
12. "O&M" means operations and maintenance.
13. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
14. "Permit" means VPDES Permit No. VAG11, the VPDES General Permit for Concrete Products Facilities, which was issued under the State Water Control Law and the Regulation on January 1, 2019 and which expires on December 31, 2023.
15. "Pollutant" means any substance, radioactive material, or heat which causes or contributes to, or may cause or contribute to pollution. 9 VAC 25-210-10.

16. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3; 9 VAC 25-210-10.
17. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
18. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
19. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
20. "Super Concrete" means Super Concrete Co., Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Super Concrete is a "person" within the meaning of Va. Code § 62.1-44.3.
21. "SWPPP" means stormwater pollution prevention plan.
22. "Va. Code" means the Code of Virginia (1950), as amended.
23. "VAC" means the Virginia Administrative Code.
24. "VPDES" means Virginia Pollutant Discharge Elimination System.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Super Concrete owns and operates the Facility, which operates as a ready-mix concrete plant and contractor's office/yard/shop.
2. On February 4, 2020, DEQ granted Super Concrete coverage under the Permit, issuing Super Concrete Registration No. VAG110373. On June 2, 2021, Super Concrete was issued a modification of coverage under the Permit.

- a. Super Concrete applied for and was initially granted coverage under the Permit as a no-discharge facility. As a no-discharge facility Super Concrete was not authorized to discharge any process wastewater or stormwater associated with industrial activity from the Facility to state waters. Permit compliance requirements were discussed with Super Concrete during a meeting with DEQ at NRO on February 4, 2020.
  - b. The modified Permit coverage issued to Super Concrete on June 2, 2021, added outfall 001 as an authorized discharge point, and removed the no-discharge status of the Facility. The modified Permit coverage allows Super Concrete to discharge stormwater associated with industrial activities from outfall 001 to an unnamed tributary of Bull Run, in strict compliance with the terms and conditions of the Permit.
3. DEQ staff performed an inspection of the Facility and a review of Facility records on February 9, 2021.
4. On May 4, 2021, DEQ received Super Concrete's annual DMR for the January through December 2020 monitoring period. The DMR was due on January 10, 2021.
5. Parts I.A.2, II.A, and III.C of the Permit and page 1 of Permit issuance cover letter dated February 4, 2020, required Super Concrete to conduct monitoring of storm water discharges from the Facility for the presence of pollutants of concern once during each annual monitoring period, to record the monitoring results on a DMR, and to submit a DMR to the Department by January 10 of each year.

No outfalls were identified in the permit registration statement dated December 16, 2019, submitted by Super Concrete to DEQ; therefore, the Annual 2020 DMR was to be submitted to confirm that there was no discharge during the preceding year.

6. As reported on Super Concrete's 2020 DMR submission received May 4, 2021, the Facility was not being operated as a "no discharge" Facility as permitted. During Facility expansion work that occurred throughout 2020, stormwater drainage features including a drop inlet were installed at the Site. The installation of a drop inlet created an outfall location where stormwater associated with industrial activity has a potential to discharge from the Site.

Based on statements from Super Concrete, outfall 001 was installed in mid-2020 and not being operated to prohibit the discharge of stormwater. Therefore, the unauthorized discharge of stormwater associated with industrial activity occurred from outfall 001, as modified permit coverage to allow discharges through outfall 001 was not issued until June 2, 2021.

7. Part I.B.11 of the Permit states: "Process wastewater, commingled process wastewater, and stormwater or stormwater treatment units designed to operate as "no discharge" shall have no discharge of wastewater or pollutants except in storm events greater than a 25-

year, 24-hour storm event. In the event of such a discharge, the permittee shall report an unusual or extraordinary discharge per Part III H of this permit. No sampling or DMR is required for these discharges as they are considered to be discharging in emergency discharge conditions. All other conditions in Part I B, Part II, and Part III apply. Any other discharge from this type of system is prohibited and shall be reported as an unauthorized discharge per Part III G of this permit. The operation of these systems shall not contravene the Water Quality Standards (9VAC25-260), as adopted and amended by the board, or any provision of the State Water Control Law.”

8. Super Concrete submitted a revised registration statement on May 10, 2021, to formally notify DEQ of the installation of outfall 001 and to request for permit coverage of discharges of stormwater associated with industrial activity from the outfall. DEQ was not notified of the out-fall change within the timeframe required by the Permit.
9. Part I.B.17 of the Permit requires Super Concrete to notify the Department of all outfall changes within 60 days of the change.
10. During the February 2021 inspection DEQ staff observed that Super Concrete had not developed a SWPPP for the Facility.
11. Part II.F of the Permit requires that a SWPPP be developed and implemented for the Facility.
12. During the February 2021 inspection, DEQ staff observed that quarterly visual monitoring had not been performed by Super Concrete at the Facility throughout 2020.
13. Part II.C of the Permit requires that a quarterly visual examination of stormwater discharges from the Facility’s outfalls be performed and documented. If no storm event resulted in runoff from the Facility during a monitoring quarter, visual monitoring for that quarter is excused provided that it is documented in the Facility’s SWPPP.
14. During the February 2021 inspection, DEQ staff observed that quarterly routine facility inspections had not been performed by Super Concrete at the Facility throughout 2020.
15. Part II.F.6.f.(5) of the Permit requires that quarterly routine facility inspections be performed and documented by Facility personnel who possess the knowledge and skills to adequately perform such inspections.
16. During the February 2021 inspection, DEQ staff observed that an annual outfall evaluation for the presence of unauthorized discharges was not performed by Super Concrete for outfall 001 in 2020.
17. Part II.F.8.b of the Permit requires that all Facility outfalls be evaluated annually for the presence of unauthorized discharges, and that documentation of such evaluations be maintained in the Facility’s SWPPP.

18. During the February 2021 inspection, DEQ staff observed that Super Concrete had not developed an O&M Manual for the Facility.
19. Part I.B.8.a of the Permit requires that an O&M Manual for the Facility be developed and implemented within 180 days of being granted coverage under the Permit, and explains the minimum required contents of the O&M Manual.
20. During the February 2021 inspection, DEQ staff observed that Super Concrete had not developed a stormwater employee training program or conducted any employee training related to stormwater.
21. Part II.F.6.f.6 requires Super Concrete to implement a stormwater employee training program for the Facility and to document in the SWPPP a summary of any training performed.
22. DEQ issued Notices of Violation (NOVs) to Super Concrete for the noncompliance described above as follows:
  - a. NOV No. W2021-02-N-0001 dated February 22, 2021; and
  - b. NOV No. W2021-05-N-0001 dated May 20, 2021.
23. Va. Code § 62.1-44.5 states that: “[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.”
24. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
25. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
26. The Department has issued no permits or certificates to Super Concrete for the Facility other than VPDES Permit Registration No. VAG110373.
27. The unnamed tributary of Bull Run is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
28. Based on DEQ’s 2018 305(b) report, the UT of Bull Run has been neither monitored nor assessed. Bull Run is located approximately one mile downstream from the Facility. Bull Run is impaired for the aquatic life use based on benthic macroinvertebrate bioassessment (included in the Bull Run Sediment TMDL), and is impaired for the fish consumption use due to PCBs in fish tissue.
29. Based on DEQ’s Facility inspection performed February 9, 2021, information provided to DEQ by Super Concrete in follow-up to the inspection, Super Concrete’s responses to the

Notices of Violation, and related correspondence between DEQ and representatives of Super Concrete, the Board concludes that Super Concrete has violated 9 VAC 25-31-50 and Parts I.A.2, I.B.8, I.B.17, II.C, II.F, II.F.5, II.F.6.f.6, II.F.8.b, and III.C of the Permit, as described above in paragraphs C(1) through C(27).

30. Representatives of Super Concrete corresponded with DEQ throughout the enforcement process and in March 2021 Super Concrete hired a new environmental consultant to assist with compliance with the Permit. In addition to completing the permit modification described above in paragraph C.2, Super Concrete provided several other compliance submissions at the request of DEQ from May through July 2021. The submissions included a SWPPP, an O&M Manual, quarterly inspection information, and employee stormwater training information. DEQ sent an email reply to Super Concrete on July 23, 2021, providing comments on the submissions.

31. In order for Super Concrete to complete its return to compliance, DEQ staff and representatives of Super Concrete have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Super Concrete, and Super Concrete agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of **\$37,830.50** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Super Concrete shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Super Concrete shall be liable for attorneys' fees of 30% of the amount outstanding.

Both the Board and Super Concrete understand and agree that this Order supersedes and terminates the Consent Order issued by the Board to Super Concrete on September 21, 2020.

### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Super Concrete for good cause shown by Super Concrete, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. W2021-05-N-0001 dated May 20, 2021 and NOV No. W2021-02-N-0001 dated February 22, 2021. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Super Concrete admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Super Concrete consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Super Concrete declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Super Concrete to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Super Concrete shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Super Concrete shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Super Concrete shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when



circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Super Concrete. Nevertheless, Super Concrete agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after Super Concrete has completed all of the requirements of the Order;
  - b. Super Concrete petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Super Concrete.

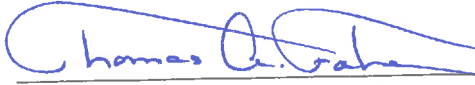
Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Super Concrete from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Super Concrete and approved by the Department pursuant to this Order are incorporated into

this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of Super Concrete certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind Super Concrete to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Super Concrete.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Super Concrete voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 29<sup>th</sup> day of November, 2021.

  
Thomas A. Faha, Regional Director  
Department of Environmental Quality

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Super Concrete Co., Inc. voluntarily agrees to the issuance of this Order.

Date: 9-29-21 By: Amandio P. Morales, PRESIDENT  
(Person) (Title)  
Super Concrete Co., Inc.

Commonwealth of Virginia  
City/County of MANASSAS PARK

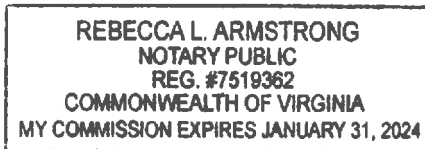
The foregoing document was signed and acknowledged before me this 29 day of  
Sept., 2021, by Amandio P. Morales who is  
President of Super Concrete Co., Inc., on behalf of the corporation.

Rebecca Armstrong  
Notary Public

7519362  
Registration No.

My commission expires: 1-31-24

Notary seal:



## **APPENDIX A**

### **SCHEDULE OF COMPLIANCE**

Super Concrete Co., Inc. shall:

1. By January 10, 2022, submit the following items to DEQ:
  - a. Copies of the SWPPP and O&M Manual for the Facility with the proper signature and certifications.
  - b. documentation of employee stormwater training for 2021;
  - c. a copy of the Facility's annual outfall evaluation for the presence of unauthorized discharges for 2021;
  - d. documentation that quarterly visual monitoring and a routine quarterly facility inspection were completed in the fourth quarter of 2021.
2. Unless otherwise specified in this Order, Super Concrete shall submit all requirements of Appendix A of this Order to:

Virginia Department of Environmental Quality  
Northern Regional Office  
Attention: Enforcement  
13901 Crown Court  
Woodbridge, VA 22193